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EXAMINER	
BLIVETS, D #7	
ART UNIT	PAPER NUMBER
3306	

DATE MAILED: 04/07/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/612,061

Applicant(s)

Cox et al.

Examiner

Deborah Blyveis

Group Art Unit

3306



☒ Responsive to communication(s) filed on Dec 30, 1996

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 7-9 is/are allowed.

☒ Claim(s) 1-5 and 10-12 is/are rejected.

☒ Claim(s) 6 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3306

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Miriaki et al.

Miriaki et al. discloses a balloon (58) and a guidewire lumen (42) that is external to and distinct from the perfusion lumen (80). The perfusion lumen has a metallic ribbon coil support (98), see fig. 1. It further includes a balloon inflation lumen molded member, the balloon is molded to the catheter, and the guidewire is internal to the balloon.

3. Claims 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Saab.

Saab discloses a balloon (28), including an inflatable envelope portion, and a perfusion lumen that decreases distally in cross section within the inflatable envelope portion, see col. 4, lines 30-56. It further includes a metallic ribbon coil (31), see col. 4, lines 63-69.

Response to Arguments

4. Applicant's arguments filed 12/30/96 have been fully considered but they are not persuasive. In regard to claims 10-12, the guidewire lumen in Crocker and Cox is capable of being collapsible, and therefore reads on the claims.

Art Unit: 3306

Allowable Subject Matter

5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 7-9 are allowed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Serial Number: 08/612,061

Page 4

Art Unit: 3306

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Blyveis whose telephone number is (703) 308-2110.

Mark Bockelman
Mark Bockelman
Primary Examiner
Group 3300

d.b. 3/31/97

March 31, 1997